

## RBS and RUS, USDA

## § 4274.332

depository account to RBS and subordinate any liens it may have against the IRP depository bank account. The use of Form RD 402-1, "Deposit Agreement," or similar form developed by the State Regional Office of the General Counsel is acceptable.

(b) *Ultimate recipients.* Security for a loan from an intermediary's IRP revolving fund to an ultimate recipient will be negotiated between the intermediary and ultimate recipient, within the general security policies established by the intermediary and approved by the Agency.

[63 FR 6053, Feb. 6, 1998, as amended at 70 FR 38572, July 5, 2005]

### §§ 4274.327–4274.330 [Reserved]

#### § 4274.331 Loan limits.

(a) *Intermediary.* (1) No loan to an intermediary will exceed the maximum amount the intermediary can reasonably be expected to lend to eligible ultimate recipients, in an effective and sound manner, within 1 year after loan closing.

(2) The initial Agency IRP loan as defined in § 4274.302(a) will not exceed \$2 million.

(3) Intermediaries that have received one or more IRP loans may apply for and be considered for subsequent IRP loans provided:

(i) At least 80 percent of each of an intermediary's IRP loans, except those earmarked for special purposes, must have been disbursed to eligible ultimate recipients or the subsequent loan will serve a geographic area not included in an area currently served.

(ii) The intermediary is promptly relending all collections from loans made from its IRP revolving fund in excess of what is needed for required debt service, reasonable administrative costs approved by the Agency, and a reasonable reserve for debt service and uncollectable accounts;

(iii) The outstanding loans of the intermediary's IRP revolving fund are generally sound; and

(iv) The intermediary is in compliance with all applicable regulations and its loan agreements with the Agency.

(4) Subsequent loans will not exceed \$1 million each and not more than one

loan will be approved by the Agency for an intermediary in any single fiscal year unless the request is from an IRP earmark.

(5) Total outstanding IRP indebtedness of an intermediary to the Agency will not exceed \$15 million at any time.

(b) *Ultimate recipients.* Loans from intermediaries to ultimate recipients using the IRP revolving fund must not exceed the lesser of:

(1) \$250,000; or

(2) Seventy five percent of the total cost of the ultimate recipient's project for which the loan is being made.

(c) *Portfolio.* No more than 25 percent of an IRP loan approved may be used for loans to ultimate recipients that exceed \$150,000. This limit does not apply to revolved funds.

[63 FR 6053, Feb. 6, 1998, as amended at 70 FR 38573, July 5, 2005]

#### § 4274.332 Post award requirements.

(a) *Applicability.* Intermediaries receiving loans under this program shall be governed by these regulations, the loan agreement, the approved work plan, security interests, and any other conditions which the Agency may impose in making a loan. Whenever this subpart imposes a requirement on loans made from the "IRP revolving fund," such requirement shall apply to all loans made by an intermediary to an ultimate recipient from the intermediary's IRP revolving fund for as long as any portion of the intermediary's IRP loan from the Agency remains unpaid. Whenever this subpart imposes a requirement on loans made by intermediaries from "Agency IRP loan funds," without specific reference to the IRP revolving fund, such requirement shall apply only to loans made by an intermediary using Agency IRP loan funds, and will not apply to loans made from revolved funds.

(b) *Maintenance of IRP revolving fund.* For as long as any part of an IRP loan to an intermediary remains unpaid, the intermediary must maintain the IRP revolving fund. All Agency IRP loan funds received by an intermediary

must be deposited into an IRP revolving fund. The intermediary may transfer additional assets into the IRP revolving fund. All cash of the IRP revolving fund shall be deposited in a separate bank account or accounts. No other funds of the intermediary will be commingled with such money. All moneys deposited in such bank account or accounts shall be money of the IRP revolving fund. Loans to ultimate recipients are advanced from the IRP revolving fund. The receivables created by making loans to ultimate recipients, the intermediary's security interest in collateral pledged by ultimate recipients, collections on the receivables, interest, fees, and any other income or assets derived from the operation of the IRP revolving fund are a part of the IRP revolving fund.

(1) The portion of the IRP revolving fund that consists of Agency IRP loan funds, on a last-in-first-out basis, may only be used for making loans in accordance with §4274.314 of this subpart. The portion of the IRP revolving fund which consists of revolved funds may be used for debt service, reasonable administrative costs, or reserves in accordance with this section, or for making additional loans.

(2) The intermediary must submit an annual budget of proposed administrative costs for Agency approval. The amount removed from the IRP revolving fund for administrative costs in any year must be reasonable, must not exceed the actual cost of operating the IRP revolving fund, including loan servicing and providing technical assistance, and must not exceed the amount approved by the Agency in the intermediary's annual budget.

(3) A reasonable amount of revolved funds must be used to create a reserve for bad debts. Reserves must be accumulated over a period of years. The total amount should not exceed maximum expected losses, considering the quality of the intermediary's portfolio of loans. Unless the intermediary provides loss and delinquency records that, in the opinion of the Agency, justifies different amounts, a reserve for bad debts of 6 percent of outstanding loans must be accumulated over 3 years and then maintained.

(4) Any cash in the IRP revolving fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to ultimate recipients.

(5) All reserves and other cash in the IRP revolving loan fund not immediately needed for loans to ultimate recipients or other authorized uses will be deposited in accounts in banks or other financial institutions. Such accounts will be fully covered by Federal deposit insurance or fully collateralized with U.S. Government obligations, and must be interest bearing. Any interest earned thereon remains a part of the IRP revolving fund.

(6) If an intermediary receives more than one IRP loan, it need not establish and maintain a separate IRP revolving loan fund for each loan; it may combine them and maintain only one IRP revolving fund, unless the Agency requires separate IRP revolving funds because there are significant differences in the loan purposes, work plans, loan agreements, or requirements for the loans. The Agency may allow loans with different requirements to be combined into one IRP revolving fund if the intermediary agrees in writing to operate the combined revolving funds in accordance with the most stringent requirements as required by the Agency.

§§ 4274.333–4274.336 [Reserved]

**§ 4274.337 Other regulatory requirements.**

(a) *Intergovernmental consultation.* The IRP is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The approval of a loan to an intermediary will be the subject of intergovernmental consultation. For each ultimate recipient to be assisted with a loan from Agency IRP loan funds and for which the State in which the ultimate recipient is to be located has elected to review the program under their intergovernmental review process, the State Single Point of Contact must be notified. Notification, in the form of a project description, must be initiated by the intermediary or the ultimate recipient. Any